

ED-7 IN THE UNITED STATES DISTRICT COURT  
FILED FOR DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

04 OCT -4 PM 2:02

Sandy G. Molina, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

Van Ru Credit Corporation, an Illinois  
corporation,

Defendant.

No.

Jury Demanded

04C 6386

JUDGE GRADY  
MAGISTRATE JUDGE  
GERALDINE SOAT BROWN

DOCKETED

OCT 04 2004

**CLASS ACTION COMPLAINT**

Plaintiff, Sandy G. Molina, individually and on behalf of all others similarly situated, brings this action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), for a declaration that the form of Defendant's debt collection letters violates the FDCPA, and to recover damages by reason of Defendant's violation of the FDCPA, and alleges:

**JURISDICTION AND VENUE**

1. The jurisdiction of the Court is invoked as authorized by § 1692k(d) of the FDCPA, and 28 U.S.C. § 1331.

2. Venue is proper in this District because the acts and transactions occurred here, Plaintiff resides here, and Defendant transacts business here.

**PARTIES**

3. Plaintiff, Sandy G. Molina ("Molina"), is a citizen of the State of Illinois, residing in the Northern District of Illinois, from whom Defendant attempted to collect a consumer debt allegedly owed to Capital One Services.

1-1

4. Defendant, Van Ru Credit Corporation ("Van Ru"), is an Illinois corporation that acts as a debt collector, as defined by § 1692a of the FDCPA, because it regularly uses the mails and/or telephone to collect, or attempt to collect, consumer debts, including consumer debts in the Northern District of Illinois.

### **FACTUAL ALLEGATIONS**

5. Defendant Van Ru sent Molina a form collection letter, dated October 6, 2003, in which it made a settlement offer to resolve her account for 75% of the balance, but stated that payment had to be received in Van Ru's office by a specific date. Specifically, this letter stated, in pertinent part:

\*\*\*

#### **SETTLEMENT OFFER**

We are authorized to settle your account with the above client which, as of the date of this letter, is \$819.84 for the sum of \$614.88, provided this sum is received by Van Ru by October 21, 2003.

This offer automatically will be revoked if your payment is not received by October 21 2003.

We may be able to take your payment over the phone. Contact a Van Ru representative at the above toll-free number.

\*\*\*

This letter was sent within one year of this Complaint and is attached as Exhibit

A.

6. Thereafter, via a letter dated November 24, 2003, Van Ru made an even better settlement offer to Plaintiff to settle the account for 60% of the balance but also said this latest offer had to be received by a specific date. This

letter was sent within one year of the date of this Complaint and is attached as Exhibit B.

7. The statements in Defendant's form collection letters are to be interpreted under the "unsophisticated consumer" standard. (See, Bartlett v. Heibl, 128 F.3d 497, 500 (7th Cir. 1997); Chauncey v. JDR, 118 F.3d 516, 519 (7th Cir. 1997); Avila v. Rubin, 84 F.3d 222, 226 (7th Cir. 1996)).

**Violation Of § 1692e Of The FDCPA By Making False, Deceptive Or Misleading Statements Of Limited Time Settlement Offers**

8. Section 1692e of the FDCPA prohibits Defendant Van Ru from making any false, deceptive or misleading statements. Defendant Van Ru falsely stated in two of its form collection letters (Ex.'s A and B) that it was, for a limited time, able to make a settlement offer to Plaintiff to resolve her debt for 75% of the balance, and thereafter 60% of the balance, as long as payment was received in their office by a specific date. Defendant Van Ru's own letters show that its limited duration settlement offers were not of limited duration. The first settlement offer (Ex. A) was false because a second even better offer was made (Ex. B). Moreover, Defendant and its client are virtually always ready to settle debts for 75% of the balance or less. Thus, Defendant Van Ru's collection letters violate § 1692e of the FDCPA. See, Goswami v. American Collections Enterprise, Inc., 2004 WL 1562708 at [\*13] (5th Cir. 2004).

9. Defendant Van Ru's violation of § 1692e of the FDCPA renders it liable for statutory damages, costs, and reasonable attorneys' fees. (See, 15 U.S.C. § 1692(k)).

### **CLASS ALLEGATIONS**

10. Plaintiff, Sandy G. Molina, brings this action individually and as a class action on behalf of all persons similarly situated in the State of Illinois from whom Defendant Van Ru attempted to collect a consumer debt allegedly owed to Capital One Services, from one year before the date of this Complaint to the present, and as to which the consumer was sent a purported limited settlement offer letter similar to the letters Plaintiff received. This action seeks a declaration that Defendant Van Ru's form letters violate the FDCPA, and asks that the Court award damages as authorized by § 1692k(a)(2) of the FDCPA.

11. Defendant Van Ru regularly engages in debt collection, using the same form collection letters it sent Plaintiff Molina, in its attempts to collect from other persons.

12. The Class consists of more than 50 persons from whom Defendant attempted to collect consumer debts by sending other consumers the same form collection letters it sent Plaintiff Molina.

13. Plaintiff Molina's claims are typical of the claims of the Class. Common questions of law or fact raised by this class action complaint affect all members of the Class and predominate over any individual issues. Common relief is therefore sought on behalf of all members of the Class. This class action is superior to other available methods for the fair and efficient adjudication of this controversy.

14. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to

the individual members of the Class, and a risk that any adjudications with respect to individual members of the Class would, as a practical matter, either be dispositive of the interests of other members of the Class not party to the adjudication, or substantially impair or impede their ability to protect their interests. Defendant Van Ru has acted in a manner applicable to the Class as a whole such that declaratory relief is warranted.

15. Plaintiff Molina will fairly and adequately protect and represent the interests of the Class. The management of the class action proposed is not extraordinarily difficult, and the factual and legal issues raised by this class action complaint will not require extended contact with the members of the Class, because Defendant Van Ru's conduct was perpetrated on all members of the Class and will be established by common proof. Moreover, Plaintiff Molina has retained counsel experienced in class action litigation, including class actions brought under the FDCPA.

#### **PRAYER FOR RELIEF**

Plaintiff, Sandy G. Molina, prays that this Court:

1. Certify this action as a class action;
2. Appoint Plaintiff Molina as Class Representative of the Class, and her attorneys as Class Counsel;
3. Declare that Defendant's form collection letters violate the FDCPA;
4. Enter judgment in favor of Plaintiff Molina and the Class, and against Defendant, for statutory damages, costs, and reasonable attorneys' fees as provided by § 1692k(a) of the FDCPA; and,

5. Grant such further relief as deemed just.

**JURY DEMAND**

Plaintiff, Sandy G. Molina, demands trial by jury.

Sandy G. Molina, individually and  
on behalf of all others similarly  
situated

  
One of Plaintiff's Attorneys

Dated: October 4, 2004

David J. Philipps  
Mary E. Philipps  
Gomolinski & Philipps, Ltd.  
8855 S. Roberts Road  
Hickory Hills, Illinois 60457  
(708) 974-2900  
(708) 974-2907 (FAX)

**Van Ru Credit Corporation**

4415 S Wendler Dr, Bldg B, Suite 200

Tempe AZ 85282-6410

Telephone #: 800-408-2678 Ext. 2146



PO Box 48

Lincolnwood IL 60646-0549

RETURN SERVICE REQUESTED

October 2003

1142878 5 200399 55615



Sandy G. Molina

2836 N. Irving Ave

Chicago IL 60618-7214

VAN RU CREDIT CORPORATION  
PAYMENT PROCESSING CENTER

PO Box 498

Park Ridge IL 60068-0498



Account # 11428784

Balance: \$ 819.84

**Past Due Balance**

\*\*\*Detach Upper Portion And Return With Payment\*\*\*

Credit	Account #	Balance
Capital One Services Primary	Se5291071503669382	\$ 819.84

**SETTLEMENT OFFER**

We are authorized to settle your account with the above client which, as of the date of this letter, is \$819.84 for the sum of \$614.88 provided this sum is received by Van Ru by October 21 2003.

This offer automatically will be revoked if your payment is not received by October 21 2003.

We may be able to take your payment over the phone. Contact a Van Ru representative at the above toll-free number.

This communication is from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

Yours truly,

**Van Ru Credit Corporation**

IONVANRU

**EXHIBIT****A**

tabbies

**Van Ru Credit Corporation**

4415 S Wendler Dr, Bldg B, Suite 200

Tempe AZ 85282-6410

Telephone #: 800-408-2678 Ext. 2171

PO Box 549  
Lincoln IL 60646-0549  
RETURN SERVICE REQUESTED

November 24, 2003

VAN RU CREDIT CORPORATION  
PAYMENT PROCESSING CENTER

PO Box 498

Park Ridge IL 60068-0498

11428784 460 150929 10780  
Sandy Molina  
2836 Harding Ave  
Chicago IL 60618-7214

Account # 11428784

Balance: \$ 836.50

**Past Due Balance**

\*\*\*Detach Upper Portion And Return With Payment\*\*\*

Creditor	Account #	Balance
Capital One Services Primary	Se5291071503669382	\$ 836.50

**SETTLEMENT OFFER**

We are authorized to settle your account with the above client which, as of the date of this letter, is \$836.50 for the sum of \$501.25 provided this sum is received by Van Ru by December 9 2003.

This offer automatically will be revoked if your payment is not received by December 9 2003.

We may be able to take your payment over the phone. Contact a Van Ru representative at the above toll-free number.

This communication is from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

Yours truly,

**Van Ru Credit Corporation**

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**EXHIBIT****13**



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

ED-7  
FILED FOR DOCKETING

04 OCT 4 PM 2:01  
**Civil Cover Sheet**

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for use by the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by the Federal Rules of Civil Procedure. This form is authorized for use only in the Northern District of Illinois.

Plaintiff(s): **Sandy G. Molina, individually and Defendant(s): Van Ru Credit Corporation, an**  
on behalf of all others similarly situated, Illinois corporation,

County of Residence: Cook

County of Residence:

Plaintiff's Atty: Gomolinski & Philipps, Ltd.  
8855 South Roberts Road  
Hickory Hills, IL 60457  
(708) 974-2900

Defendant's Atty:

**04C 6386**

II. Basis of Jurisdiction: **3. Federal Question (U.S. not a party)**

JUDGE GRADY

**DOCKETED**

OCT 04 2004

III. Citizenship of Principal  
Party (Diversity Cases Only)

Plaintiff: -N/A  
Defendant: -N/A

MAGISTRATE JUDGE  
GERALDINE SOAT BROWN

IV. Origin: **1. Original Proceeding**

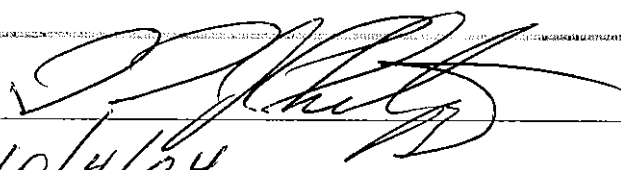
V. Nature of Suit: **890 Other Statutory Actions**

VI. Cause of Action: **Fair Debt Collection Practices Act, 15 U.S.C. Section 1692 et seq.**

VII. Requested in Complaint

Class Action: Yes  
Dollar Demand: **damages, costs and reasonable attorneys' fees**  
Jury Demand: Yes

VIII. This case **IS NOT** a refiling of a previously dismissed case.

Signature: 

Date: 10/4/04

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, print this form, sign and date it and submit it with your new civil action. **Note: You may need to adjust the font size in your browser display to make the form print properly.**

Revised: 06/28/00

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

In the Matter of Sandy G. Molina, individually and on behalf of all others similarly situated, v. Van Ru Credit Corporation, a Illinois corporation.

FILED FOR DOCKETING

04 OCT -4 PM 2:01

CLERK  
U.S. DISTRICT COURT

Case Number: 04-cv-2471

**04C 6386**  
**DOCKETED**

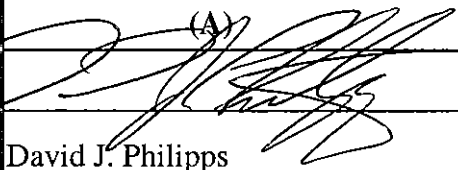
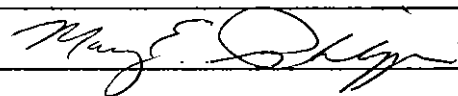
OCT 04 2004

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

Plaintiff Sandy G. Molina, individually and on behalf of all others similarly situated.

JUDGE GRADY

MAGISTRATE JUDGE  
GERALDINE SOAT BROWN

	(A)		(B)
SIGNATURE		SIGNATURE	
NAME	David J. Philipps	NAME	Mary E. Philipps
FIRM	Gomolinski & Philipps, Ltd.	FIRM	Gomolinski & Philipps, Ltd.
STREET ADDRESS	8855 S. Roberts Road	STREET ADDRESS	8855 S. Roberts Road
CITY/STATE/ZIP	Hickory Hills, Illinois 60457	CITY/STATE/ZIP	Hickory Hills, Illinois 60457
TELEPHONE NUMBER	708-974-2900	TELEPHONE NUMBER	708-974-2900
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	Ill. Bar No. 06196285	IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	Ill. Bar No. 06197113
MEMBER OF TRIAL BAR?	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	MEMBER OF TRIAL BAR?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
TRIAL ATTORNEY?	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	TRIAL ATTORNEY?	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
		DESIGNATED AS LOCAL COUNSEL?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
	(C)		(D)
SIGNATURE		SIGNATURE	
NAME		NAME	
FIRM		FIRM	
STREET ADDRESS		STREET ADDRESS	
CITY/STATE/ZIP		CITY/STATE/ZIP	
TELEPHONE NUMBER		TELEPHONE NUMBER	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	
MEMBER OF TRIAL BAR?	YES <input type="checkbox"/> NO <input type="checkbox"/>	MEMBER OF TRIAL BAR?	YES <input type="checkbox"/> NO <input type="checkbox"/>
TRIAL ATTORNEY?	YES <input type="checkbox"/> NO <input type="checkbox"/>	TRIAL ATTORNEY?	YES <input type="checkbox"/> NO <input type="checkbox"/>
DESIGNATED AS LOCAL COUNSEL?	YES <input type="checkbox"/> NO <input type="checkbox"/>	DESIGNATED AS LOCAL COUNSEL?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>

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